

**MINUTES OF PUBLIC MEETING
FOR THE CORRECTIONS OFFICER RETIREMENT PLAN LOCAL BOARD
FOR THE JUDICIARY**

A Public Meeting of the Corrections Officer Retirement Plan Local Board for the Judiciary was convened Tuesday, April 6, 2021 at 10:00 a.m., Conference Room 109, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona.

Board Members Present in Conference Room 109: N/A

Board Member Present by Conference/Video Call: Kevin Kluge, Chair; Jason Hathcock; Jennifer Fish; Mark Smalley; Scott Mabery

Board Member Absent:

Also Present in Conference Room 109: Vanessa Haney, Local Board Secretary (video call); Alicia Bocardo, Recorder (video call); Cynthia Kelley, Board Attorney (video call); Liana Garcia, AOC Director of Government Affairs (video call)

Call to Order:

Approval of the Minutes:

March 2, 2021 – Public Meeting Minutes

MOTION: A motion to approve the public minutes of the March 2, 2021 meeting was made by Mark Smalley. The motion was seconded and passed; minutes stand approved. **CORP 2021-12**

Future Meeting Structure (Taken out of Order)

The Chair suggested that the Board meeting continue to be held virtually until further notice. It was decided among the Board that the meetings be held via Zoom unless a rehearing becomes necessary. The Local Board Secretary was advised to keep the conference room booked through 2022 as standby option for needed in person meetings.

Legislative Report

AOC Director of Government Affairs, Liana Garcia, attended the Board meeting to update all legislation relevant to PSPRS/CORP.

Ms. Garcia summarized the status of following: HB2008, HB2059, HB2177, HB2297, HB2381, SB1045, SB1046, SB1051, SB1053, SB1054, SB1347, SB1348, SB1396, and SB1649.

Board Member Jason Hathcock stated that HB2381 would become effective 1/1/2022 and emphasized the need to have an understanding from PSPRS about required training and new procedures and responsibilities for the Board.

Ms. Garcia informed the Board that her legislative staff will create a summarized list and overview of the passed legislation for the Board's review.

Ms. Garcia left the video meeting at 10:16 a.m.

Consideration of Disability Application – Paul Munoz #17-02

The Board approved Application #17-02, Paul Munoz, for Accidental Disability benefits on March 6, 2018. Mr. Munoz was advised via certified mail that the Board would conduct a three-year review at this meeting.

This applicant signed the confidentiality waiver to allow discussion of medical information in open session. The following were submitted to the Board's Review: medical records since 2018, original accidental disability application, original IME conducted by Dr. Michael Steingart on February 26, 2018, and a copy of A.R.S. §38-886 governing Local Board consideration of applications for Accidental Disability.

A.R.S. § 38-886.01. D.: The local board may require a retired member with a disability to undergo periodic reevaluation of the continuation of ordinary disability. If the retired member with a disability refuses to submit to reevaluation, the local board may suspend payment of the pension. If the refusal continues for one year, the local board may revoke the rights to the pension of the retired member with a disability. An ordinary disability pension is terminated if the local board finds the retired member no longer meets the requirements for ordinary disability retirement. This subsection does not apply after a retired member with a disability reaches the member's normal retirement date. The amount of a disability pension shall not be recomputed at the normal retirement date of a retired member with a disability.

The criteria for Accidental Disability benefits per A.R.S. §38-881 are: "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department and was incurred in the performance of the employee's duties.

The Local Board Secretary noted for the record that Mr. Munoz had 6.5 years of credited service when he terminated employment for accidental disability benefits.

Board member Jason Hathcock stated that he was unsure if the Board had the authority to review Mr. Munoz's case because the applicant turned 62 years of age in November and was therefore eligible to retire.

Board Attorney Cynthia Kelly informed the board that they should look at how much service he would have if he had not left the workplace.

Board Member, Jason Hathcock explained that he would have completed 10 years of service, thus invalidating the Board's need to review the case

MOTION: A motion to continue disability benefit for Applicant #17-02, Paul Munoz, and end further review of this case was made by Jason Hathcock. The motion was seconded and passed unanimously. **CORP 2021-13**

2021 CORP Election

Board member Mark Smalley's term will expire on June 30, 2021. Pursuant to A.R.S. §38-893, the Board will conduct an election to fill that position effective July 1, 2021.

Board Chair, Kevin Kluge's term will also expire on June 30, 2021. Mr. Kluge's reappointment or a new appointment for that position will be made by May 31, 2021.

Board member Jason Hathcock asked the Local Board Secretary how many nominations were received. The Local Board Secretary stated six nominations were received. She added that two of the six members did not respond when asked if they were willing to serve. The Local Board Secretary informed the Board that the final election ballot was sent to the printer and will be sent out via mail when they are received.

Decision on Notice of Retiree Return to Work

The Board received a Notice of Retiree Return to Work from Pinal County for Kathryn O'Brien. The form indicated that Ms. O'Brien retired from the Maricopa County Judicial Branch effective January 1, 2021. Ms. O'Brien returned to work for the Pinal County Superior Court on February 22, 2021 as a Program Coordinator, which is a Non-CORP designated position.

A copy of A.R.S. §38-884.N-O. was provided to the Board as well as a copy of Ms. O'Brien's current job description.

MOTION: A motion was made by that: (1) Kathryn O'Brien eligible to continue to receive a CORP pension; (2) Pinal County is not responsible for paying an alternate contribution rate on her behalf was made by Jennifer Fish. The motion was seconded and passed unanimously. **CORP 2021-14**

Approval of Normal Retirement Benefits:

There were nine application for Normal Retirement benefits submitted for the Board's approval pursuant to A.R.S. § 38-893 (D).

Candelaria Corral	\$3,134.69; Reverse DROP Estimate: \$15,694.20
Todd Hay	\$2,747.05
David Johnson	\$2,881.45
Mark Maish	\$2,302.17
Hector Nava	\$1,997.89
Eric Oliva	\$3,044.20
Beverlee Padilla	\$3,944.18
Saul Schoon	\$7,361.69; Reverse DROP Estimate: \$418,638.88
Abimael Vargas	\$2,906.99

MOTION: A motion to approve the payment of Normal Retirement benefit to the following applicants in about the following amount effective April 1, 2021 was made by Scott Mabery. The motion was seconded and passed unanimously. CORP 2021-15

Acknowledgment of CORP Physical Exam Final Letter

Physical examination reports have not been received for the members listed below. Certified letters were sent to the members regarding non-receipt of the CORP physical examinations within 60 days of receipt of the membership forms.

<u>Name</u>	<u>Date Letter Sent</u>
Tanisha Castilaw	December 21, 2020
Diego Hernandez	January 24, 2021

The Chair noted for the record that the physical examinations for Tanisha Castilaw and Diego Hernandez were not received within 60 days of receipt of their membership applications and that final letter requesting the examinations were sent via certified mail.

Approval of Membership:

The Local Board may consider and vote on the approval of the following requests for membership or defer decision to a later date:

Bernal, Kevin	Pinal	03/14/2021
Carrillo, Alexander	Pima	12/27/2020
Castilaw, Tanisha	Cochise	10/25/2020
Catron, Karlyn	Maricopa	01/24/2021
Charles, Christina	Maricopa	09/28/2020
Eiser, Kevin	Pinal	11/16/2020
Galindo Rosenbaum, Keith	Pinal	02/28/2021
Hernandez, Diego	Yuma	12/20/2020
Johnson, Vincent	Pinal	02/28/2021
Lewis, Isla	Cochise	12/07/2020
Lopez Vega, Monica	Pima	01/24/2021
Lopez, Ana	Maricopa	11/09/2020
Lurvey, Michelle	Coconino	01/15/2021
Mingolo, Louis	Coconino	09/21/2020
Salas, Evelyn	Maricopa	02/28/2021
Zanon, Katelynn	Mohave	01/24/2021

MOTION: A motion to approve the 16 applicants listed on the agenda for this meeting for membership in CORP pursuant to A.R.S. §38-893.D and to note for the record that the physical examinations for Karlyn Carton, Keith Galindo Rosenbaum, Vincent Johnson, Isla Lewis, and Katelynn Zanon identified a physical or mental condition or injury that existed or occurred before their date of membership in the plan, was made by Jennifer Fish. The motion was seconded and passed unanimously. CORP 2021-16

Request to Remain CORP

Diana Ortiz of Maricopa County submitted a request to remain in the Corrections Officer Retirement Plan pursuant to A.R.S. §38-891(G).

Ms. Ortiz is transferring from the CORP designated position of Adult Probation Officer to the non-designated position of Adult Probation Background Investigator. Ms. Ortiz has 9.268 total years of credited service.

A.R.S. §38-891(G):

The local board of the judiciary may specify positions within the administrative office of the courts that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers as a designated position if the position is filled by an employee who is a member of the plan currently employed in a designated position as a probation, surveillance or juvenile detention officer and who has at least five years of credited service under the plan. An employee who fills such a position shall make a written request to the local board to specify the position as a designated position within ninety days after accepting the position. On the employee leaving the position, the position reverts to a non-designated position.

The Chair noted that the statute (A.R.S. §38-891 G) does not include the Arizona counties under “Administrative Office of the Courts”. He added that the legislative verbiage was specific with the primary function of integrating CORP staff to AOC for technical/training purposes. The Chair explained that the intent was not to create a basis for members to remain in CORP for position changes within the county.

Board member Jennifer Fish added that the position as an Adult Probation Background Investigator was not newly created for the purposes of training/expertise and was not considered a CORP position in the past.

The Chair agreed and it was noted that the Board could not decide on the matter.

Approval of Survivor Benefit:

An application for a survivor benefit was submitted for the Board’s approval pursuant to A.R.S. §38-887.

John Gilbert (Active Member - deceased February 21, 2021)

Benefit Payable to Spouse Tracy Gilbert beginning March 31, 2021: \$5,159.21

Board Attorney Cynthia Kelly explained that there is a good timeline on this case. She added that there is a presumption by a lot of jurisdictions that, if a first responder or essential worker contracts COVID-19 that it was contracted in the workplace. She said it is rebuttable, but the file is pretty good on John Gilbert. It appears that it was work related and that the “killed in the line of duty” benefits would apply.

The Board discussed the issue and Board Member Jennifer Fish inquired if the Safeguarding America’s First Responders Act of 2020 and Public Safety Officers’ Benefits Program were the standard guidelines to use for “line of duty” eligibility.

Board Attorney Cynthia Kelley restated that the Board's decision would have to be based on presumption, due to the unprecedented nature and, unknown biological history of first responders and essential workers across all systems. She added that there is no uniform standard for guidance at this time. She acknowledged that the Board may request more timeline information to substantiate the claim, if necessary.

Board members Jennifer Fish and Scott Mabery agreed that more information should be requested to establish a timeline.

Board member Jason Hathcock requested to note for the record the following facts:

- Mr. Gilbert last badged in on 1-11-2021
- He was tested for COVID-19 on 1-16-2021
- He received a positive COVID-19 diagnosis on 1-18-2021
- The positive diagnosis was within five days of his last day on the worksite

The Chair stated that the incubation period for each person exposed to COVID-19 differs based on individual's organisms and that the Board may not find the absolute definite source of Mr. Gilbert's exposure. He added that any new information would not create concrete evidence of exposure in or out of the workplace.

Board member Jason Hathcock cited the following excerpts from Safeguarding America's First Responders Act of 2020:

- The officer was diagnosed with COVID-19 (or evidence indicates that the officer had COVID-19) during the 45-day period beginning on the last day of duty of the officer
- Evidence indicates that the officer had COVID-19 (or complications therefrom) at the time of the officer's death.

MOTION: A motion to approve the payment of a survivor benefit to the following applicant in about the following amount was made by Jason Hathcock. The motion was seconded and passed with a vote of 3-2. **CORP 2021-17**

John Gilbert (Active Member - deceased February 21, 2021)
Benefit Payable to Spouse Tracy Gilbert beginning March 31, 2021: \$5,159.21

Board members Jennifer Fish and Scott Mabery noted for the record that they voted no for the following reasons: there is little to no understanding of the appropriate related legislation; and, they believe more information could be provided to establish a better timeline.

Board Attorney Cynthia Kelley agreed to provide the most current information on legal procedural matters referencing first responders and essential workers killed in the line of duty due to COVID-19 at the next meeting.

Future Agenda Items:

The Local Board Secretary advised the Board that upcoming agenda items will contain normal retirement applications and election updates.

Call to the Public:

No members of the public addressed the Board.

The meeting was adjourned at 11:12 a.m.

Transcribed April 14, 2021.